

§ 814.47

21 CFR Ch. I (4–1–10 Edition)

an order withdrawing approval of the application. The order will be issued under § 814.17, will state each ground for withdrawing approval, and will include a notice of an opportunity for administrative review under section 515(e)(2) of the act.

(e) FDA will give the public notice of an order withdrawing approval of a PMA. The notice will be published in the FEDERAL REGISTER and will state that a detailed summary of information respecting the safety and effectiveness of the device, including information about any adverse effects of the device on health, has been placed on public display and that copies are available upon request. When a notice of withdrawal of approval is published, data and information in the PMA file will be available for public disclosure in accordance with § 814.9.

§ 814.47 Temporary suspension of approval of a PMA.

(a) *Scope.* (1) This section describes the procedures that FDA will follow in exercising its authority under section 515(e)(3) of the act (21 U.S.C. 360e(e)(3)). This authority applies to the original PMA, as well as any PMA supplement(s), for a medical device.

(2) FDA will issue an order temporarily suspending approval of a PMA if FDA determines that there is a reasonable probability that continued distribution of the device would cause serious, adverse health consequences or death.

(b) *Regulatory hearing.* (1) If FDA believes that there is a reasonable probability that the continued distribution of a device subject to an approved PMA would cause serious, adverse health consequences or death, FDA may initiate and conduct a regulatory hearing to determine whether to issue an order temporarily suspending approval of the PMA.

(2) Any regulatory hearing to determine whether to issue an order temporarily suspending approval of a PMA shall be initiated and conducted by FDA pursuant to part 16 of this chapter. If FDA believes that immediate action to remove a dangerous device from the market is necessary to protect the public health, the agency may, in accordance with § 16.60(h) of this chapter,

waive, suspend, or modify any part 16 procedure pursuant to § 10.19 of this chapter.

(3) FDA shall deem the PMA holder's failure to request a hearing within the timeframe specified by FDA in the notice of opportunity for hearing to be a waiver.

(c) *Temporary suspension order.* If the PMA holder does not request a regulatory hearing or if, after the hearing, and after consideration of the administrative record of the hearing, FDA determines that there is a reasonable probability that the continued distribution of a device under an approved PMA would cause serious, adverse health consequences or death, the agency shall, under the authority of section 515(e)(3) of the act, issue an order to the PMA holder temporarily suspending approval of the PMA.

(d) *Permanent withdrawal of approval of the PMA.* If FDA issues an order temporarily suspending approval of a PMA, the agency shall proceed expeditiously, but within 60 days, to hold a hearing on whether to permanently withdraw approval of the PMA in accordance with section 515(e)(1) of the act and the procedures set out in § 814.46.

[61 FR 15190, Apr. 5, 1996]

Subpart D—Administrative Review [Reserved]

Subpart E—Postapproval Requirements

§ 814.80 General.

A device may not be manufactured, packaged, stored, labeled, distributed, or advertised in a manner that is inconsistent with any conditions to approval specified in the PMA approval order for the device.

§ 814.82 Postapproval requirements.

(a) FDA may impose postapproval requirements in a PMA approval order or by regulation at the time of approval of the PMA or by regulation subsequent to approval. Postapproval requirements may include as a condition to approval of the device:

(1) Restriction of the sale, distribution, or use of the device as provided by